

Freedom of Information request - Enquiries from local authorities re Church of Scientology Religious Education College Incorporated

Full extracts of emails received in connection with the Commission's opinion on the charitable status and/or eligibility for mandatory relief from national non-domestic rates (business rates) of Church of Scientology Religious Education College Incorporated.

Email from Camden Council to Charity Commission dated 23/07/2009

I am writing in respect of query arising out of a Non-Domestic Rating matter. An organisation, The Church of Scientology Religious Education College Inc ("the College") have a number of premises within the London Borough of Camden. They are not a registered charity. They are seeking to have mandatory rate relief applied to their premises on the basis that, although not a registered charity, they say they fulfil the relevant legislative criteria for relief.

For clarification we have suggested that it would be in the College's interest to register with the Charities Commission.

The College have made representations that they are subject to the jurisdiction of the English High Court, and further that they are a Charity. The London Borough of Camden understood that as such it would seem that the College is under a statutory duty to be registered in the register of charities under section 3A (1) of the Charities Act 1993, because the College confirm that they are established for charitable purposes only, and fall to be subject to the control of the High Court, and are thus, a charity.

The College has a substantial annual turnover and as such the London Borough of Camden cannot see that the College would be exempt under any of the subsections of 3A. Section 3B (1) (Duties of trustees in connection with registration) makes clear that where a charity is required to be registered by virtue of section 3A (1), and it is not registered, it is the duty of the charity trustees to apply to the Commission for the charity to be registered, and to supply the Commission with the required documents and information.

Having spoken to the Legal representatives of the College they have stated that they are not required to be registered with the Charities Commission because they as an organisation are incorporated in Australia. Indeed they state that the Charities Commission informed the College that they could not be registered because of that.

My query is whether or not that is indeed the case? It seems to the London Borough of Camden to be an odd position that the College would be subject to the control of the High Courts and enjoy all the benefits of a Charitable Organisation (eg mandatory rate relief) without being able to register with the Charities Commission.

The London Borough of Camden believe that the Charity Commission (or the Charity Tribunal) is the body best equipped to determine whether the College is established for charitable purposes, rather than individual Local Authorities, and wonder whether there would be any other restrictions on them doing this?

I look forward to hearing from you.

Email from Charity Commission to Camden Council dated 17/08/2009

I have been unable to locate a response from us that stated that the College could not be registered, however if their governing document does state that they are subject to the laws of Australia, then this would probably preclude registration as a charity by the Commission.

As you may be aware, the Church of Scientology applied for charitable status some years ago and was rejected. The decision of the Commissioners is available on the Commission's web-site. The conclusion reached was that the Church of Scientology is not charitable as an organisation established for the advancement of religion. It was further determined that the core practices of Scientology, being auditing and training, do not constitute worship.

I suspect that the Church has therefore deduced an application from a college that - I am presuming - is established to educate its students in the practices of Scientology may not be considered charitable. However an application would be considered on its individual merit, should the College present one.

Email from Camden Council to Charity Commission dated 26/08/2009

Thank you for your very helpful response to my query. I think I must agree with your assertion that the Church has deduced that a college to educate its students in the practices of Scientology may not be considered charitable given the Commissioner's previous decision.

However, it is because of this that we have concerns that the College are using their governing document as a means of circumventing the need to register with the Charities Commission, whilst at the same time enjoying the benefits of charitable reliefs, for example from various other boroughs in the form of mandatory rate relief, and also I understand from HM Revenue & Customs from whom they are entitled to certain other tax reliefs.

Would you be able to expand upon the reasoning why they would be precluded from registering with the Charities Commission if their governing document states that they are subject to the laws of Australia? The reason I ask is that they appear to fulfil all of the legislative criteria for registration, and I am not able to find anything in the legislation that would preclude an organisation primarily based in the UK from registering (for example if the majority of charity trustees live in England and Wales; and/or the majority of assets are in England and Wales)

Also on a separate note, if an organisation failed to register in line with the legislation, what enforcement action (if any) would be taken against them?

Please accept my apologies for these further queries, and many thanks in advance.

Email from Camden Council to Charity Commission dated 08/09/2009

Further to my email on the 26th August 2009 (attached) I have reviewed the College's incorporation document in light of the comments that you made previously. I can confirm that it makes no reference to the laws of South Australia in its governance, other than at Article XI where it states that the college shall have a seal that "meets the requirements of the provisions of the Associations Incorporations Act 1956-1965 or any other laws of the State of South Australia applicable from time to time." All other references in the governing document to laws are general, and are not further defined.

I hope that this information assists in respect of my further enquiries, and look forward to hearing from you.

Email from Charity Commission to Camden Council dated 03/11/2009

May I first apologise for the delay in responding to your e-mail regarding the Church of Scientology Religious Education College Inc. To respond to your enquiry an institution can be a registered charity only if it is subject to the charity jurisdiction of the English courts. An institution set up for charitable purposes will fall within the Court's charity jurisdiction if it is governed by English law. In the case of a company this follows from its incorporation in England or Wales. In the case of unincorporated bodies, the jurisdiction of the High Court will follow from the adoption of English law as the proper law of that body. The identity of the proper law may be expressed, but usually it will be inferred, to be the law of that country with which the institution appears to have its closest connection. As a general rule, the following features should be present:

The institutions centre of administration is in England and Wales;
The majority of the trustees reside in England and Wales;
The majority of the institution's property and its main bank account is in England and Wales.

The legal principles on which our jurisdiction is based are set out in the Court of Appeal case of **Gaudiya Mission v Bramhachary** [1997] 4 All ER 957. This judgement was further reinforced by **Armenian Patriarch of Jerusalem v sonsino** [2002] EWHC 1304 (CH).

While not wishing to be unhelpful the seal stated in article X1 of the College's Incorporation document would suggest that the organisation would not fall within the jurisdiction of the English courts and therefore would not be regulated by the Charity Commission.

If there is evidence that the organisation were claiming to be a Charity regulated by the laws of England and Wales the compliance division would consider the evidence further, or if the organisation were required to register but was refusing to do so the compliance team would engage with them. Neither of these would be matters for the registration division.

I hope this information assists you.

Email from Camden Council to Charity Commission dated 03/11/2009

Thank you very much for your response which is very helpful. The Church of Scientology are indeed claiming in their correspondence to us that they are a Charity regulated by the laws of England and Wales (despite being incorporated abroad originally), and are using this to justify the assertion that they should be granted mandatory rate relief as a charity by the London Borough of Camden. With that in mind would you be able to give me the contact details of a senior advisor within the compliance division?

I look forward to hearing from you, and thank you again.

Email from Charity Commission to Camden Council dated 03/11/2009

If you forward your concerns in writing to the address below I will ensure that they are aware that you will be contacting them;

Jacqui Seattle Assessment and Intelligence Manager
Charity Commission Direct
PO Box 1227,
Liverpool L69 3UG

Email from Camden Council to Charity Commission dated 03/11/2009

Thank you again for your assistance in this matter.

Email from Charity Commission dated 24/11/2009

Please find enclosed a response to your letter dated 4th November 2009.

Email from Camden Council to Charity Commission dated 24/11/2009

Thank you for your letter, the contents of which are extremely helpful.